

## COMPARISON

### Existing Statutory Language to AB 2679 (Ruskin), Chapter 500, Statutes of 2008

40115.5. "Closed disposal site" means a disposal site that ceases to accept solid waste and is closed in accordance with applicable statutes, regulations, and local ordinances in effect at the time of the closure.

40116.1. "Composting" means the controlled or uncontrolled biological decomposition of organic wastes.

40120.1. "Disposal" or "dispose" has the same meaning as "solid waste disposal" as defined in Section 40192.

40122. "Disposal site" or "site" ~~means~~ includes the place, location, tract of land, area, or premises in use, intended to be used, or which has been used, for the ~~landfill disposal of solid wastes.~~ landfill disposal of solid wastes. ~~"Disposal site" includes solid waste landfill, as defined in Section 40195.1.~~

40123. ~~"Disposal site owner" means the person who holds title to the property used as a disposal site after January 1, 1977.~~

40141. (a) "Hazardous waste" means a waste, defined as a "hazardous waste" in accordance with Section 25117 of the Health and Safety Code, or a combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

(1) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(b) Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

40150.2. "Minor violation" means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, that an enforcement agency or the board is authorized to implement or enforce pursuant to Part 5 (commencing with Section 45000) and that does not otherwise include any of the following:

(a) A violation that results in injury to persons or property or that presents a significant threat to human health or the environment.

(b) A knowing, willful, or intentional violation.

(c) A violation that is a chronic violation or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the enforcement agency or board, whichever issues the notice to comply, shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(d) A violation that results in an emergency response from a public safety agency.

(e) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

40160. "Operator" means ~~a the person who operates a solid waste facility or operates to whom the approval to operate a disposal site, transfer or processing station, or collection system is granted.~~

40162. "Owner" means a person who holds fee title to, or a leasehold or other possessory interest in, real property that is presently in use as a solid waste facility or is a disposal site.

40192. (a) Except as provided in subdivisions (b) and (c), "solid waste disposal," ~~or "disposal,"~~ or "dispose" means the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the state.

(b) ~~For Except as provided in Part 2 (commencing with Section 40900), for purposes of Part 2 (commencing with Section 40900),~~ "solid waste disposal," "dispose," or "disposal" means the management of solid waste through landfill disposal or transformation at a permitted solid waste facility, unless the term is expressly defined otherwise.

(c) For purposes of Chapters 16 (commencing with Section 42800) and Chapter 19 (commencing with Section 42950) of Part 3, Part 4 (commencing with Section 43000), Part 5 (commencing with Section 45000), Part 6 (commencing with Section 45030), and Chapter 2 (commencing with Section 4790147900) of Part 7, "solid waste disposal," "dispose," or "disposal" means the final deposition of solid wastes onto land.

40194. "Solid waste facility" includes a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, and a disposal facility. For purposes of Part 5 (commencing with Section 45000), "solid waste facility" additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by the board.

43209. The enforcement agency, within its jurisdiction and consistent with its certification by the board, shall do all of the following:

(a) Enforce applicable provisions of this part, regulations adopted under this part, and terms and conditions of permits issued pursuant to Chapter 3 (commencing with Section 44001).

(b) Request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

(c) File with the board, upon its request, information the board determines to be necessary.

(d) Develop, implement, and maintain inspection, enforcement, permitting, and training programs.

(e) (1) Establish and maintain an enforcement program consistent with regulations adopted by the board to implement this chapter, the standards adopted pursuant to this chapter, and the terms and conditions of permits issued pursuant to Chapter 3 (commencing with Section 44001).

(2) The enforcement agency may establish specific local standards for solid waste handling and disposal subject to approval by a majority vote of its local governing body, by resolution or ordinance.

(3) A ~~Any such~~ standard established pursuant to this subdivision shall be consistent with this division and all regulations adopted by the board.

(f) Keep and maintain records of its inspection, enforcement, permitting, training, and regulatory programs, and of any other official action in accordance with regulations adopted by the board.

(g) (1) Consult, as appropriate, with the appropriate local health agency concerning all actions which involve health standards.

(2) The consultation required by this subdivision shall include affording the health agency adequate notice and opportunity to conduct and report the evaluation as it reasonably determines is appropriate.

(h) Establish and maintain an inspection program.

(1) The inspection program required by this subdivision shall be designed to determine whether any solid waste facility is operating under any of the following:

(A) The facility is operating without a permit, ~~or.~~

(B) The facility is operating in violation of state minimum standards, ~~or.~~

(C) The facility is operating in violation of the terms and conditions of its solid waste facilities permit;  
~~or,~~

(D) The facility may pose a significant threat to public health and safety or to the environment, based on any relevant information.

(2) The inspection program established pursuant to this subdivision shall also ensure frequent inspections of solid waste facilities that have an established pattern of noncompliance with this division, regulations adopted pursuant to this division, or the terms and conditions of a solid waste facilities permit. The inspection program may include public awareness activities, enforcement to prevent the illegal dumping of solid waste, and the abatement of the illegal dumping of solid waste.

43214. (a) The board shall develop performance standards for evaluating certified local enforcement agencies and shall periodically review each certified enforcement agency and its implementation of the permit, inspection, and enforcement program. The board's review shall include periodic inspections of solid waste facilities and disposal sites within the jurisdiction of each enforcement agency for the purpose of evaluating whether the enforcement agency is appropriately applying and enforcing state minimum standards ~~at solid waste sites~~ within its jurisdiction.

(b) Following initial certification of an enforcement agency by the board, the board shall conduct a performance review of the enforcement agency every three years, or more frequently as determined by the board.

(c) In conducting performance reviews of enforcement agencies, the board shall, based on the performance standards developed pursuant to subdivision (a), determine whether each enforcement agency is in compliance with the requirements of this article and the regulations adopted to implement this article. If the board finds that an enforcement agency is not fulfilling its responsibilities pursuant to this article and if the board also finds that this lack of compliance has contributed to significant noncompliance with state minimum standards at solid waste facilities or disposal sites within the jurisdiction of the enforcement agency, the board shall withdraw its approval of designation pursuant to Sections 43215 and 43216. Notwithstanding Sections 43215 and 43216, if the board finds that conditions at solid waste facilities or disposal sites within the jurisdiction of the enforcement agency threaten public health and safety or the environment, the board shall, within 10 days of notifying the enforcement agency, become the enforcement agency until another enforcement agency is designated locally and certified by the board.

(d) The board shall find that an enforcement agency is not fulfilling its responsibilities pursuant to this article, and may take action as prescribed by subdivision (c), if the board, in conducting its performance review, makes one or more of the following findings with regard to compliance with this part and Part 5 (commencing with Section 45000):

(1) The enforcement agency has failed to exercise due diligence in the inspection of solid waste facilities and disposal sites.

(2) The enforcement agency has intentionally misrepresented the results of inspections.

(3) The enforcement agency has failed to prepare, or cause to be prepared, permits, permit revisions, or closure and postclosure maintenance plans.

(4) The enforcement agency has approved permits, permit revisions, or closure and postclosure maintenance plans that which are not consistent with this part and Part 5 (commencing with Section 45000).

(5) The enforcement agency has failed to take appropriate enforcement actions.

(6) The enforcement agency has failed to comply with, or has taken actions that are inconsistent with, or that are not authorized by, this division or the regulations adopted by the board pursuant to this division. However, nothing in this paragraph is intended to affect the authority of enforcement agencies pursuant to subdivision (e) of Section 43209.

44000.5. (a) With respect only to solid waste disposed of in this state, a person shall not dispose of solid waste, cause solid waste to be disposed of, arrange for the disposal of solid waste, transport solid waste for purposes of disposal, or accept solid waste for disposal, except at a solid waste disposal facility for which a solid waste facilities permit has been issued pursuant to this chapter or as otherwise authorized pursuant to this division and the regulations adopted by the board pursuant to this division.

(b) A violation of this section is an unlawful act.

44100. (a) The enforcement agency, in issuing or reviewing ~~a any~~ solid waste facilities permit or in connection with ~~an any~~ action relating to a solid waste facilities permit or as otherwise ~~thereto or~~ authorized by this division, may investigate the operation of a solid waste facility, ~~by any person of a~~ transfer or processing station, a disposal site, collection or handling equipment, or a storage area for solid wastes.

(b) In the investigation, the enforcement agency may require ~~a any~~ person, who is, or proposes to become, an operator of a solid waste facility, a transfer or processing station, a disposal site, collection or handling equipment, or a storage area for solid wastes, or ~~a any person that~~ which the enforcement agency believes may have information concerning a suspected violation of this division, to furnish, under penalty of perjury, any nonprivileged technical or monitoring program or other reports that the enforcement agency may specify.

(c) If the owner of property upon which solid waste is unlawfully stored, stockpiled, disposed, handled, or maintained refuses to allow or provide the board, the enforcement agency, or a contractor of the board or enforcement agency with access to enter onto the property and perform all necessary cleanup, abatement, or remedial work as authorized pursuant to Section 45000 or 48020, the court may issue the board, the enforcement agency, or a contractor of the board or enforcement agency a warrant pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure to permit reasonable access to the property to perform that activity, if the following conditions have been met:

(1) An administrative order requiring corrective action has been issued or obtained pursuant to Section 45000 against the property owner.

(2) The board or enforcement agency finds that there is a significant threat to public health or the environment.

44306. The enforcement agency may, after holding a hearing in accordance with the procedures set forth in Section 44310, revoke a solid waste facilities permit if the enforcement agency determines any of the following:

(a) The permit was obtained by a material misrepresentation or failure to disclose relevant factual information.

(b) The operator has, during the previous three years, been convicted of, or been issued a final order for, one or more violations of this division, regulations adopted pursuant to this division, or the terms and conditions of the permit, and the violation meets both of the following criteria:

(1) The violation demonstrates a chronic recurring pattern of noncompliance ~~that~~ which has posed, or may pose, a significant risk to public health and safety or to the environment.

(2) The violation has not been corrected or reasonable progress toward correction has not been achieved.

(c) The operator has failed to pay in full any monetary penalty imposed pursuant to Part 5 (commencing with Section 45000) within 90 days from the date when the penalty is required to be paid and after the expiration of the time period during which the permitholder may appeal the ruling, or after the denial of the permitholder's timely appeal up to, and including, an appeal to the superior court.

45000. (a) Except as provided in subdivision (b), the enforcement agency or the board may issue an administrative order requiring the owner or operator of a solid waste facility or disposal site or a person in violation of Section 44000.5, to take corrective action as necessary to abate a nuisance, or to protect human health and safety or the environment. If both the board and the enforcement agency issue an administrative order regarding the same facility, disposal site, or person, the order issued by the board shall prevail if there is a conflict between the orders.

(b) An administrative order shall not be issued for a any minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.

(c) The enforcement agency or the board may contract for corrective action after an order issued pursuant to subdivision (a) becomes final and the owner or operator fails to comply with the order by the date specified in the order.

(d) If an enforcement agency or the board expends any funds pursuant to subdivision (b), the owner or operator of the solid waste facility or disposal site or a person in violation of Section 44000.5 shall reimburse the enforcement agency or the board for the amount expended, including, but not limited to, a reasonable amount for contract administration, and an amount equal to the interest that would have been earned on the expended funds. The amount expended shall be recoverable in a civil action by the Attorney General, upon request of the local enforcement agency or the board.

(e) A Any contract for corrective action entered into by the board is exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(f) A Any corrective action shall incorporate by reference any applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of, the Water Code, and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, existing at the time of the corrective action or proposed corrective action.

45002. (a) Except as provided in subdivision (b), an An order issued pursuant to this part or Part 4 (commencing with Section 43000) shall provide the person subject to that order with a notice of that person's right to appeal pursuant to Part 4 (commencing with Section 43000) and Part 6 (commencing with Section 45030).

(b) The recipient of a notice to comply issued pursuant to Section 45003 may request that a hearing be conducted in accordance with Section 44307, but only with respect to an action taken by an enforcement agency of the board that arises from a minor violation that the owner or operator fails to correct or fails to certify, in a timely manner, as having been corrected.

45003. (a) (1) An authorized representative of the enforcement agency or board who, in the course of conducting an inspection, detects a minor violation, shall take an enforcement action as to the minor violation only in accordance with this section.

(2) In a proceeding concerning an enforcement action taken pursuant to this section, there shall be a rebuttable presumption upholding the determination made by the enforcement agency or board regarding whether the violation is a minor violation.

(b) A notice to comply shall be the only means by which an enforcement agency or board may cite a minor violation, unless the person cited fails to correct the violation or fails to submit the certification of correction within the time period prescribed in the notice, in which case the enforcement agency or board may take any enforcement action, including imposing a penalty, as authorized by this part.

(c) (1) The enforcement agency or the board shall commence an enforcement action under this section by serving a notice to comply on the owner or operator of the solid waste facility or disposal site at which a violation has occurred, specifying the violation and the manner in which the violation may be corrected.

(2) A person who receives a notice to comply detailing a minor violation shall have not more than 30 days from the date of the notice to comply in which to correct any violation cited in the notice to comply. Within five working days of correcting the violation, the person cited or an authorized representative shall sign the notice to comply, certifying that any violation has been corrected, and return the notice to the enforcement agency or board, whichever issued the notice to comply.

(3) A false certification that a violation has been corrected is punishable as a misdemeanor.

(4) The effective date of the certification that a violation has been corrected shall be one of the following dates, whichever occurs first:

(A) The date the certification is received by the enforcement agency or the board, whichever issued the notice to comply, including receipt of an electronic or facsimile version of the certification.

(B) The date the certification is postmarked by the United States Postal Service.

(C) The date the certification is accepted for delivery by a national express delivery service as evidenced by a receipt.

(d) If a notice to comply is issued, a single notice to comply shall be issued for all minor violations noted during the inspection, and the notice to comply shall list all of the minor violations and the manner in which each of the minor violations may be brought into compliance.

(e) If a person who receives a notice to comply pursuant to subdivision (c) disagrees with one or more of the alleged violations listed on the notice to comply, the person shall provide the enforcement agency or board that issued the notice to comply a written notice of disagreement specifying the allegations with which the person disagrees along with the returned signed notice to comply, certifying that all of the undisputed violations have been corrected. If the person disagrees with all of the alleged violations, the written notice of disagreement shall be returned in lieu of the signed certification of correction within 30 days of the date of issuance of the notice to comply. If the issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as any other alleged violation under Section 44307.

(f) This section does not do any of the following:

(1) Prevent a reinspection to ensure compliance with this division or to ensure that minor violations cited in a notice to comply have been corrected and that the solid waste facility or disposal site is in compliance with this division.

(2) Prevent the enforcement agency or board from requiring a person to submit necessary documentation needed to support the person's claim of compliance pursuant to subdivision (c).

(3) Restrict the power of a city attorney, district attorney, county counsel, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.

(4) Prevent the enforcement agency or board from cooperating with, or participating in, a proceeding specified in paragraph (3).

45005. An enforcement agency or the board may issue a cease and desist order to any of the following:

(a) A person who is operating, has operated, or proposes to operate, a solid waste facility or operates a disposal site in an unauthorized manner, or who is disposing of solid waste in ~~an~~ any of the following manners: ~~unauthorized manner, or who owns a solid waste facility and causes or permits the operator to operate the facility~~

... (1) In ~~in~~ violation of a solid waste facilities permit or in violation of this division, or any regulation adopted pursuant to this division, ~~or~~ .

(2) Without ~~without~~ a solid waste facilities permit, ~~or~~ .

~~(3) In a manner that causes or threatens to cause a condition of hazard, pollution, or nuisance shall, upon order of the enforcement agency, cease and desist any prohibited activities.~~

~~(b) A person who has violated, is violating, or proposes to violate Section 44000.5.~~

45010. ~~(a) The board Legislature hereby finds and enforcement agencies shall impose declares as follows:~~

~~(a) It is the intent of the Legislature that administrative civil penalties should be imposed on the operators of solid waste facilities in a judicious manner and shall impose those penalties should only be imposed after all reasonable feasible efforts pursuant to Section 45010.2 have been made by enforcement agencies to provide proper notice of violations to alleged violators as well as a reasonable opportunity to bring solid waste facilities and disposal sites into compliance with this division.~~

~~(b) An enforcement agency shall not deposit Any funds collected through the imposition of civil penalties pursuant to this article shall not be deposited in the General Fund of the local enforcement agency, but instead shall deposit those funds be deposited in a segregated account and used use those funds exclusively for enhancing solid waste enforcement within the local enforcement agency's jurisdiction, including, but not limited to, all the following: the purpose of~~

~~(1) Increasing enforcement programs.~~

~~(2) Expanding the agency's enforcement capabilities.~~

~~(3) Bringing bringing a solid waste facilities facility into compliance with this division.~~

~~(4) Remediating illegal or to remediate an abandoned solid waste disposal sites site.~~

~~(c) Any civil Civil penalties paid to the board pursuant to this article shall be deposited in the Enforcement Penalty Account, which is hereby established in the Solid Waste Disposal Site Cleanup Trust Fund created pursuant to Section 48027. Notwithstanding subdivision (b) of Section 48027, the moneys in the Enforcement Penalty Account may be expended by the board, upon appropriation by the Legislature, to enforce and implement this division.~~

45010.1. (a) The board or an enforcement agency may issue an order imposing a civil penalty of not more than five thousand dollars (\$5,000) for each violation, for each day that the violation continues, to a person who violates the terms or conditions of a solid waste facilities permit or who violates a requirement of this division, a regulation adopted pursuant to this division, or an order issued under this chapter, if the requirement, regulation, or order is applicable to a solid waste facility or a disposal site. An enforcement agency or the board may impose the penalty administratively pursuant to this part.

(b) In determining the amount of civil liability to be imposed pursuant to this section, the board or enforcement agency shall take into consideration the factors specified in Section 45016.

45010.2. Before the board or enforcement agency issues an order under this chapter, except for a notice to comply pursuant to Section 45003, the board or enforcement agency shall do both of the following:

(a) Notify the owner or operator of the solid waste facility or the owner or operator of the disposal site, that the facility or site is in violation of this division, a regulation adopted pursuant to this division, or an order issued under this division, applicable to a solid waste facility or disposal site.

(b) Upon the request of the owner or operator of the solid waste facility or the owner or operator of the disposal site, meet with the owner or operator to clarify the applicable requirements and to determine what actions, if any, that the operator or owner may voluntarily take to bring the facility or site into compliance by the earliest feasible date.

45011. ~~(a) If an enforcement agency or the board determines that a solid waste facility or disposal site, is in violation of this division, any a regulation regulations adopted pursuant to this division, the terms or~~

~~conditions of a solid waste facilities permit, an any corrective action or cease and desist order, or any other order issued under this division, or poses a potential or actual threat to public health and safety or the environment, or determines that a person has disposed of solid waste at an unpermitted disposal site in violation of Section 44000.5, the enforcement agency or board may issue an order establishing a time schedule according to which the facility or site shall be brought into compliance with this division. The order may also provide for a civil penalty, to be imposed administratively by the enforcement agency or board, in an amount not to exceed five thousand dollars (\$5,000) for each day on which a violation occurs, if compliance is not achieved in accordance with that time schedule.~~

~~—(b) Before issuing an order that imposes a civil penalty pursuant to subdivision (a), an enforcement agency shall do both of the following:~~

~~—(1) Notify the operator of the solid waste facility that the facility is in violation of this division.~~

~~—(2) Upon the request of the operator of the solid waste facility, meet with the operator of the solid waste facility to clarify regulatory requirements and to determine what actions, if any, that the operator may voluntarily take to bring the facility into compliance by the earliest feasible date.~~

45012. (a) If an enforcement agency, despite having made a good faith effort pursuant to its enforcement authority or any other authority, is unable to correct a violation, and the board, acting through its executive director, and the enforcement agency both agree that enforcement by the board is feasible and desirable pursuant to these circumstances, the board, acting through its executive director, may take any appropriate enforcement action pursuant to this section.

(b) (1) Notwithstanding subdivision (a), the~~The~~ board shall not take any enforcement action specified in this part without providing notice to the ~~local~~ enforcement agency and the violator of the board's intent to take that action, allowing the ~~local~~ enforcement agency and the violator a reasonable opportunity to correct the violation, and conducting a public hearing on the matter. ~~In taking any such enforcement action, the board is vested, in addition to its other powers, with all of the powers of a local enforcement agency under this division.~~

(2) When taking an enforcement action pursuant to this section, the board is vested, in addition to its other powers, with all of the authority to take an action that an enforcement agency may take pursuant to this division.

(c)(b) Notwithstanding subdivisions (a) and (b), if the board finds that an a local enforcement agency's failure to take enforcement action constitutes an imminent threat to public health and safety or to the environment, the board may take the enforcement action that, as the board determines is necessary.

45013. The board shall make available, upon the request of the local enforcement agency, provide guidance and assistance to the enforcement agency regarding the inspection, and investigation, enforcement, and remediation of illegal, abandoned, or inactive, or closed disposal sites; to ensure that public health and safety and the environment are protected.

45017. (a) (1) Except as provided in paragraphs (2) and (3), all orders and determinations issued pursuant to this part or Part 4 (commencing with Section 43000) shall take effect immediately upon service, ~~except that a request for a hearing pursuant to Section 44307 shall stay the effect of any or all provisions of the order until the date of the completion of all administrative appeals.~~

(2) (A) If Any provision of an order or determination is issued pursuant to under this part or Part 4 (commencing with Section 43000) to the owner or operator of a solid waste facility operating under a solid waste facilities permit issued in accordance with this part, the owner or operator may petition the executive director of the board, pursuant to this subparagraph, to stay the effect of the order or



determination, or portion thereof, pending the completion of administrative appeals before the hearing panel or hearing officer or the board.

(B) A petition submitted pursuant to subparagraph (A) shall be in writing and shall state the extraordinary circumstances that justify the stay. The petition shall also state the grounds, if any, on which a finding may be made that the immediate effect of the order or determination will preclude or interfere with the provision of an essential public service so that ~~shall take effect upon service on the affected person if the enforcement agency finds that the actions or inactions associated with that provision may pose an imminent and substantial threat to the public health and safety or to the environment will be adversely affected.~~

(C) If the executive director finds the immediate effect of the order or determination will preclude or interfere with the provision of an essential public service so that the public health and safety or the environment will be adversely affected, the executive director shall consider and act on the petition within three days from the receipt of the petition. The board or the executive director may order the stay to be in effect from the effective date of the order or determination or other appropriate date. ~~and a request for a hearing shall not stay the effect of that provision of the order pending completion of all administrative appeals.~~

(D) If the executive director does not find that the immediate effect of the order or determination will preclude or interfere with the provision of an essential public service, the board shall act upon the petition within 14 days or at its next scheduled public meeting, whichever date is sooner

(3) (A) If an ~~A~~ cease and desist order or determination is issued pursuant to this part or Part 4 (commencing with Section 43000) to a person that is not the owner or operator of a permitted solid waste facility, the person subject to the order or determination may petition the board pursuant to this subparagraph to ~~44002 shall take effect upon service on the affected person and a request for a hearing shall not stay the effect of the order or determination, or portion thereof, pending, notwithstanding the completion of any administrative appeals before the hearing panel or hearing officer or the board~~ appeal, if the cease and desist order is issued to a person operating a solid waste facility on a property for which a solid waste facilities permit is required, and one of the following applies:

—(A) The person has not applied for any solid waste facilities permit for that property before the date of the issuance of the cease and desist order.

(B) The board shall act on a petition filed pursuant to subparagraph (A) within 14 days or at its next scheduled public meeting whichever date is sooner. The board may order the stay to be in effect from the effective date of the order or determination or other appropriate date.

—(B) The person has been denied a solid waste facilities permit for the operation on that property for which a solid waste facilities permit is required.

(b) For purposes of this section, service may be effected by any of the following:

(1) Personal delivery.

(2) First-class United States mail, if it is made by certified mail and evidence of delivery is provided ~~with a return receipt requested.~~

(3) Express delivery by a national express mail service that provides evidence of delivery.

45019. At least 10 days prior to the date of issuance of an enforcement order which is not for an emergency, or within five days from the date of issuance of an enforcement order for an emergency, or within 15 days from the date of discovery of a violation of a state law, regulation, or term or condition of a solid waste facilities permit for a solid waste facility or disposal site, which is likely to result in an enforcement action, the following agencies shall, to the extent that the enforcement action involves a violation that may also be under the jurisdiction of another state regulatory agency, provide a written statement providing an explanation of, and justification for, the enforcement order or a description of the violation in the following manner:

(a) The ~~local~~ enforcement agency ~~shall~~, as appropriate, shall provide the statement to the regional water board, the board, the air pollution control district or air quality management district, and the Department of Toxic Substances Control.

(b) A regional water board ~~shall~~, as appropriate, shall provide the statement to the ~~local~~ enforcement agency, the board, the air pollution control district or air quality management district, and the Department of Toxic Substances Control.

(c) An air pollution control district or an air quality management district ~~shall~~, as appropriate, shall provide the statement to the ~~local~~ enforcement agency, the board, the regional water board, and the Department of Toxic Substances Control.

(d) The Department of Toxic Substances Control ~~shall~~, as appropriate, shall provide the report of inspection required by paragraph (1) of subdivision (c) of Section 25185 of the Health and Safety Code to the ~~local~~ enforcement agency, the board, the regional water board, and the air pollution control district or air quality management district.

45020. (a) Within 30 days from the date of receipt of a notice of the issuance of, or the proposal to issue, an enforcement order pursuant to Section 45022, the regional water board, the enforcement agency, or the air pollution control district or the air quality management district, and the Department of Toxic Substances Control ~~shall~~, as appropriate, shall inspect the solid waste facility or disposal site to determine whether any state law, regulation, or term or condition of a permit, which that board or agency is authorized to enforce, is being violated.

(b) Each agency ~~shall~~, to the maximum extent allowed by law, shall do all of the following with respect to enforcement activities at solid waste facilities and disposal sites:

(1) Coordinate enforcement activities to eliminate duplication and facilitate compliance.

(2) Notify the owner and facility operator of the solid waste facility or owner and operator of the disposal site of a ~~any~~ violation before imposing an administrative civil penalty.

(3) Prior to imposing an ~~any~~ administrative penalty, and upon the request of the owner or operator of the solid waste facility or owner or operator of the disposal site, meet with the owner or operator to clarify the regulatory requirements and to determine what actions, if any, the owner or operator could voluntarily take to bring the solid waste facility or disposal site into compliance by the earliest feasible date. If a contemporaneous enforcement action or investigation dealing with the same violation or with similar violations is being pursued by another regulatory agency, a city attorney, a county counsel, a district attorney, or the Attorney General, the operator may request a meeting with all those investigating and enforcement entities.

(4) Consider the factors prescribed in Section 45016 in determining appropriate enforcement actions.

45021. If any board or agency specified in Section 45019 receives a complaint concerning a solid waste facility or disposal site and the board or agency determines that it is not authorized to take action concerning the complaint, the board or agency shall refer the complaint within 30 days from the date of receipt to another state agency that ~~which~~ it determines is authorized to take action.

45022. If any agency or board specified in Section 45019 receives a complaint concerning a solid waste facility or disposal site ~~that which~~ the agency or board does not refer to another state agency pursuant to Section 45021, or if the agency or board receives this ~~such a~~ complaint referred to it by another agency or board pursuant to Section 45021, the agency or board shall either take appropriate enforcement action concerning the facility or site pursuant to this part, or refer the complaint to the Attorney General, the district attorney, the ~~or~~ city attorney, or the county counsel, whichever is applicable, or, at the earliest feasible date, not to exceed 60 days, provide the person who filed the complaint with a written statement explaining why an enforcement action would not be appropriate.

45023. A civil penalty of not more than ten thousand dollars (\$10,000) may be imposed upon a ~~Any~~ person who ~~for each day the violation or operation occurs~~:

~~\_(a) Owns owns-~~or operates a solid waste facility ~~or disposal site~~ and who intentionally or negligently violates or causes or permits another to violate the terms and conditions of a solid waste facilities permit ~~or a standard, requirement, or order applicable to a solid waste facility or disposal site.~~

~~\_(b) Operates operates-~~a solid waste facility without a solid waste facilities permit.~~;~~ ~~or~~

~~\_(c) With respect only to a solid waste facility or disposal site,~~ intentionally or negligently violates a provision of this division, or a regulation, administrative order, or ~~any~~ standard adopted by the board ~~or an enforcement agency,~~ is subject to a civil penalty ~~not to exceed ten thousand dollars (\$10,000) for each day the violation or operation occurs.~~

45025. (a) (1) A violation of Part 4 (commencing with Section 43000) is a misdemeanor punishable by a fine of not less than five hundred dollars (\$500) and not more than ten thousand dollars (\$10,000) for each violation. Each instance of disposal that violates Section 44000.5 is a separate violation.

(2) In addition to a fine under paragraph (1), a violation punishable under paragraph (1) is punishable by imprisonment in a county jail for not more than six months if any of the following circumstances apply to the person convicted of a violation of this section and cause or threaten to cause serious harm to public health or safety review, or the environment:

(A) The person knowingly makes a false statement in a permit application or other document used for refusal of the purpose of compliance with this chapter.

(B) The person knowingly destroys, alters, or conceals any records required to be maintained pursuant to this chapter.

(C) The person withholds information requested by the enforcement agency.

(D) The person is convicted of more than one violation of this division, or is in violation of more than one regulation adopted pursuant to this division or term and condition of a permit.

(E) Upon receipt of an order from the board or a local enforcement agency, the person fails to correct or make reasonable progress toward correcting a violation.

(b) In addition to any fine imposed upon a conviction, the court may require, as a condition of probation and in addition to any other condition of probation, that the person convicted under this section remove, or pay the cost of removing, any solid waste the person unlawfully disposed, caused, or arranged to be disposed, transported, or accepted for disposal.

45033. A failure to appeal to the hearing panel, the hearing officer, or the board for review, or the refusal of the local enforcement agency, a hearing panel, the hearing officer, or the board to hear an appeal does not preclude a person from filing an action with the superior court to contest any action or inaction of the local enforcement agency or the board.

45040. (a) Within 30 days from the date of service of a copy of a decision ~~or and~~ order issued by a local enforcement agency or the board pursuant to, except as provided in subdivision (a) of Section 45031 or 45032, under Chapter 1 (commencing with Section 45000), any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof.

(b) (1) The filing of a petition for writ of mandate shall not stay any enforcement action taken or the accrual of any penalties assessed, pursuant to this part or Part 5 (commencing with Section 45000).